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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Leann Harris;

No.

Plaintiff,

COMPLAINT

V.

Nelson, Watson &
Associates, LLC;

Defendant.

(Jury Trial Demanded)

I. Preliminary Statement

1. Plaintiff brings this action for damages based upon Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§1692 *et seq.* (hereinafter "FDCPA"). Plaintiff seeks an award of statutory damages, actual damages, court costs and attorney's fees.

II. Statutory Structure of FDCPA

2. Congress passed the FDCPA to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent state action to protect consumers against debt collection abuses. FDCPA § 1692.
3. The FDCPA is designed to protect consumers who have been victimized by unscrupulous debt collectors regardless of whether a valid debt exists. Baker v. G.C. Services Corp., 677 F.2d 775, 777 (9th Cir. 1982).
4. The FDCPA defines a "consumer" as any natural person obligated or allegedly obligated to pay any debt. FDCPA § 1692a(3).
5. The FDCPA defines "debt" as any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes. FDCPA § 1692a(5).
6. The FDCPA defines "debt collector" as any person who uses any instrumentality of interstate commerce

1 or the mails in any business the principal purpose
2 of which is the collection of any debts, or who
3 regularly collects or attempts to collect, directly
4 or indirectly, debts owed or due or asserted to be
5 owed or due to another. FDCPA § 1692a(6).

6 7. Any debt collector who fails to comply with the
7 provisions of the FDCPA is liable for any actual
8 damage sustained; statutory damages up to \$1,000;
9 attorney's fees as determined by the Court and costs
10 of the action. FDCPA § 1692k.

11 **III. JURISDICTION**

12 8. Jurisdiction of this Court, over this action and the
13 parties herein, arises under 15 U.S.C. § 1692k(d)
14 (FDCPA), and 28 U.S.C. §§ 1331. Venue lies in the
15 Phoenix Division of the District of Arizona as
16 Plaintiff's claims arose from acts of the Defendant
17 perpetrated therein.

18 **IV. PARTIES**

19 9. Plaintiff is an individual residing in Pinal County,
20 Arizona.

21 10. Plaintiff is obligated to pay a consumer debt and is
22 a "consumer" as that term is defined by FDCPA §
23 1692a(3).

24 11. Defendant Nelson, Watson & Associates, LLC, ("Nelson
25 Watson") is a Massachusetts limited liability

1 company doing business within the state of Arizona
2 as a collection agency.

3 12. Nelson Watson is licensed as a collection agency by
4 the Arizona Department of Financial Institutions,
5 license number 0910085.

6 13. Nelson Watson collects or attempts to collect debts
7 owed or asserted to be owed or due another.

8 14. In the alternative, Nelson Watson collects or
9 attempts to collect debts it has purchased or
10 acquired after default.

11 15. Nelson Watson is a "debt collector" as that term is
12 defined by FDCPA § 1692a(6).

13 **V. FACTUAL ALLEGATIONS**

14 16. Prior to 2010, Plaintiff opened a credit card
15 account with Capital One.

16 17. The Capital One credit card was used for personal,
17 family or household purposes.

18 18. In or about 2009, due to loss of employment,
19 Plaintiff began making reduced payments of \$25 per
20 month to Capital One on the credit card account.

21 19. However, in late 2010, Capital One asserted that
22 Plaintiff was in default on her Capital One credit
23 card payments, and hired or assigned the credit card
24 debt to Nelson Watson for collection purposes.

25 20. On or about February 21, 2011, Nelson Watson mailed

1 or caused to be mailed a letter to Plaintiff
2 concerning the Capital One debt.

3 21. About that same time, Nelson Watson began a campaign
4 of calling Plaintiff and third parties concerning
5 Plaintiff's Capital One debt.

6 22. On or about February 16, 2011, Nelson Watson
7 telephoned Plaintiff to discuss the Capital One
8 debt.

9 23. Plaintiff answered the phone and explained that she
10 had been making \$25 payments to Capital One each and
11 every month.

12 24. Nelson Watson asked Plaintiff to give them two
13 friend's phone numbers to call should it not be able
14 to get a hold of Plaintiff.

15 25. Understanding that Nelson Watson would only call
16 these numbers if they could not reach Plaintiff,
17 Plaintiff gave Nelson Watson the names and phone
18 numbers of two friends.

19 26. The very next day, Nelson Watson called Plaintiff's
20 friend Marsha and left a message with Marsha to tell
21 Plaintiff that Glen had called looking for her.

22 27. Nelson Watson has called Marsha two or three times
23 concerning Plaintiff and the Capital One debt.

24 28. Nelson Watson also began calling Plaintiff's friend
25 Marissa about the Capital One debt.

1 29. Nelson Watson has called Marissa approximately every
2 day for nearly two months.

3 30. On February 18, 2011, Nelson Watson left a message
4 on Plaintiff's voice mail in which it failed to
5 identify that the call was from Nelson Watson, or
6 that the purpose of the call was to collect a debt.

7 31. On March 10, 2011, Nelson Watson's collector left
8 another message on Plaintiff's voice mail stating
9 that he had spoke with "Greg" yesterday, but did not
10 identify that he was calling from Nelson Watson, or
11 that the purpose of the call was to collect a debt.

12 32. Plaintiff returned the call on the 10th or 11th not
13 knowing she was calling Nelson Watson.

14 33. During the call, Plaintiff asked the collector who
15 "Greg" was.

16 34. The Nelson Watson collector told Plaintiff that they
17 had talked "with Greg, your husband."

18 35. Plaintiff told the collector that Greg was not her
19 husband and that she had not been married for four
20 years.

21 36. Plaintiff also told the collector that she was
22 afraid of her ex-husband, and of being hurt if he
23 learned of her current address.

24 37. Plaintiff explained that her ex-husband was not a
25 signor on the Capital One account, and that the debt

1 was incurred after the parties divorced.

2 38. Plaintiff later spoke with her son who told her that
3 "Dad wants to know why a collection agency calling
4 him about your debt."

5 39. The son also told Plaintiff that "Dad said that you
6 owe \$2,000."

7 40. The fact that Nelson Watson called her ex-husband
8 caused considerable emotional distress because of
9 his prior threats and abuse.

10 41. As a result of Defendant's actions as set forth
11 herein, Plaintiff has suffered actual damages,
12 including embarrassment, stress, worry,
13 sleeplessness, upset stomach, and other emotional
14 distress.

15 42. Nelson Watson's actions set forth herein were
16 intentional, willful, and in gross or reckless
17 disregard of Plaintiff's rights and part of its
18 persistent and routine practice of debt collection.

19 43. In the alternative, Nelson Watson's actions were
20 negligent.

21 **VI. Causes of Action**

22 **a. Fair Debt Collection Practices Act**

23 44. Plaintiff repeats, realleges, and incorporates by
24 reference the foregoing paragraphs.

25 45. Defendant's violations of the FDCPA include, but are

1 not necessarily limited to, 15 U.S.C. §§ 1692b,
2 1692c(b), 1692d, 1692d(6), 1692e, 1692e(10),
3 1692e(11), and 1692g.

4 **VII. DEMAND FOR JURY TRIAL**

5 Plaintiff hereby demands a jury trial on all issues
6 so triable.

7 **VIII. PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff requests that judgment be
9 entered against Defendant for:

- 10 a) Statutory damages of \$1,000 pursuant to FDCPA §
11 1692k;
12 b) Actual damages in amount to be determined at
13 trial;
14 c) Costs and reasonable attorney's fees pursuant to
15 §1692k; and
16 d) Such other relief as may be just and proper.
17

18 DATED April 12, 2011.

19
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